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Letter dated 19 June 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/402).

The Counter-Terrorism Committee has received the attached supplementary report from Cyprus, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-44759 (E) 150702

Annex

Letter dated 17 June 2002 from the Permanent Representative of Cyprus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 1 April 2002 convening preliminary comments by the Counter-Terrorism Committee on the report of the Government of Cyprus submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001), I have the pleasure to enclose the response of the Government of Cyprus to those comments (see enclosure).

I also enclose an advance copy of the first volume of a compilation of the relevant provisions of legal enactments, regulations and other documents of the Republic of Cyprus currently in force, as requested. The second volume of the compilation will be forwarded to the Counter-Terrorism Committee shortly.

(*Signed*) Sotos **Zackheos**
Ambassador
Permanent Representative

Enclosure

SUPPLEMENTARY REPORT OF THE REPUBLIC OF CYPRUS TO THE COUNTER-TERRORISM COMMITTEE (CTC) ESTABLISHED PURSUANT TO THE SECURITY COUNCIL RESOLUTION 1373 (2001) CONCERNING COUNTER-TERRORISM, IN REPLY TO THE LETTER DATED 1 APRIL 2002 FROM THE CHAIRMAN OF THE CTC

- **Sub-paragraph 1 (a) and (b):**

  - ***The references to proceeds of crime in Sections 4 and 5 of the Law on Suppression of Money-Laundering do not seem to meet the requirements of those sub-paragraphs, as amounts held by persons linked to terrorism may not, in all cases, be proceeds of crime. Could Cyprus please outline the provisions of Law 29(III) 01 that cover the requirements of sub-paragraphs 1(a) and (b)?***

According to Section 8 of the Ratification Law of the U.N. International Convention for the Suppression of the Financing of Terrorism, (Law No. 29(III)/2001),* acts which constitute offences prescribed in section 2 of the Convention, are considered to be "predicate offences", as if they were included in Section 5 of the Prevention and Suppression of Money Laundering Activities Law of 1996, as amended. According to the same section, the relevant provisions of the aforementioned Law are directly applicable in such cases.

Therefore, these provisions cover the instances where amounts held by persons linked to terrorism are not actually proceeds of crime.

- **Sub-paragraph 1 (a)**

  - ***Does any natural or legal person (e.g. attorneys, notaries and other intermediaries) have to report suspicious transactions to the public authorities and, if so, what are the penalties attached if they omit to report either willfully or by negligence?***

According to Section 27 of the Prevention and Suppression of Money Laundering Activities Law, all persons (natural or legal, including attorneys, accountants and other intermediaries), have an obligation to report any knowledge or suspicion of money laundering (suspicious transactions) to the Cyprus Financial Investigating Unit (F.I.U.), which is the Unit for Combating Money Laundering (MOKAS), at the Attorney General's Office.

Failure to comply with this obligation, constitutes an offence (covering negligence as well), punishable with imprisonment not exceeding 5 years and/or a pecuniary penalty not exceeding three thousand pounds.

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* The texts of the relevant provisions of the legal enactments, etc., forwarded by the Government of Cyprus are on file with the Secretariat and are available for consultation.

- **Sub-paragraph 1 (c):**

  - ***Section 14 (1) of the Money-Laundering Law does not seem to deal completely with the requirements of this sub-paragraph. Please clarify whether freezing of funds, financial assets, economic resources and other related services, as envisaged by the Resolution, are provided for in the Penal Code, other laws or any circulars issued by the Council of Ministers.***

As mentioned earlier, section 8 of the Ratification Law of the U.N. International Convention for the Suppression of the Financing of Terrorism, (Law NO. 29(III)/2001), provides that the offences prescribed in the Convention are deemed predicate offences and the relevant sections of the Prevention and Suppression of Money Laundering Activities Law of 1996, as amended, directly apply. There is a specific reference to the application of the relevant provisions in the Ratification Law.

Furthermore, it should be clarified that the administrative procedure followed after September 11, 2001 is the following:

The Attorney General submits to the Council of Ministers all lists of persons or organizations linked with terrorist activities issued by Security Council Resolutions or by any other Authority.

The Council of Ministers takes the decision and orders the necessary inquiries by the Central Bank in order to identify and freeze any such assets. Examples of the procedure followed by the Central Bank of Cyprus, based on the decisions of the Council of Ministers are given in sub-paragraph 1 (c) of the initial Report, as well as in the Annex I attached hereto.

- **Sub-paragraph 1 (d):**

  - ***Please describe the legal provisions that prohibit funds etc. being made available directly or indirectly to persons and entities connected to terrorism.***

In addition to the legal provisions concerning existing preventive measures in the financial system to prohibit the use of funds to persons or entities connected with terrorism, the legal provisions for the freezing of such assets as well as the administrative procedure for the same purpose are based on the relevant decisions of the Council of Ministers.

Please note that the provisions of the Criminal Code referred to in relation to sub-paragraph 2 (a) of the initial report do not cover this issue.

Furthermore, money transfer agencies (two such agencies exist in Cyprus, Western Union and Money Gram) are under the regulation of the Central Bank of Cyprus, which is the designated Supervisory Authority for such Agencies, after a relevant decision of the Council of Ministers on December 6, 2001. The Council of Ministers has the power according to Section 60 (1) (b) of the Prevention and Suppression of Money Laundering Activities Law of 1996, as amended, to designate Supervisory Authorities for persons or entities carrying out relevant financial business prescribed in the Law.

- ***Please explain how the financial tracking system ensures that funds received by charitable and similar associations are not diverted from the associations' stated purpose, for example, to terrorist activities.***

As far as funds received by charitable and similar associations are concerned, it should be emphasized that very few and well known charitable associations exist in Cyprus. However, the same legal provisions and procedures explained above can be applied in such cases as well.

- **Sub-paragraph 2 (d):**

- ***Please describe the provisions of existing laws under which action could be initiated against a foreigner who, while carrying on legitimate activities in Cyprus, supports terrorist acts elsewhere.***

Please refer to answer to sub-paragraph 2(e) below:

- **Sub-paragraph 2 (e):**

- **Are the relevant provisions of the Penal Code of Cyprus applicable in the following circumstances:**

- **acts committed outside Cyprus by a person who is a citizen of, or habitually resident in Cyprus (whether that person is currently present in Cyprus or not);**

- **acts committed outside Cyprus by a foreign national who is currently in Cyprus;**

According to the Constitution, citizens of the Republic of Cyprus cannot be extradited abroad. However, they can be held liable for offences committed abroad and tried by Cypriot Courts according to Section 5 of the Criminal Code of the Republic which is described below.

Foreigners who are in Cyprus and commit acts or support terrorist acts outside the territory of Cyprus, can be extradited to another country with which Cyprus has an extradition agreement.

In addition, the Courts have jurisdiction in the case of the application of the provisions of the Prevention and Suppression of Money Laundering Activities Law of 1996 and the Ratification Law of the International Convention for the Suppression of the Financing of Terrorism when the foreigner has committed terrorist acts in another country, and any connected financial activity takes place in Cyprus.

Furthermore, the Courts of Cyprus have jurisdiction over such offences and foreigners, "if the offence is one to which, under any international treaty or convention binding on the Republic, the Law of the Republic is applicable" (Section 5 of the Criminal Code, Cap. 154).

Specifically, the extent of the criminal jurisdiction of the Court of the Republic is regulated by section 5 of the Criminal Code Cap. 154 according to which offences under the Code committed outside Cyprus are triable in Cyprus:

(a) if committed by a citizen of the Republic the Criminal Code provides that:

(i) the offence is punishable by imprisonment exceeding two years and

(ii) the act committed constitutes an offence under the Law of the country where committed.

(b) if committed by any person and the offence is:

(i) treason or is against the security and the constitutional order or

(ii) piracy, or

(iii) connected with the monetary currency of the Republic, or

(iv) related to the illegal trading of dangerous drugs, or

(v) is one of the offences for which the Law of Cyprus is applicable under the provision of an International Treaty or Convention binding on the Republic.

In view of the above, a person who is not a citizen of the Republic but is habitually resident in Cyprus would only be liable for trial in Cyprus if the requirements of paragraph (b) above are satisfied.

However, most of the offences under the Criminal Code are also offences under the Conventions dealing with terrorism where the jurisdiction of the Cyprus Courts is extended to cover such offences if committed by any person anywhere.

- **Sub-paragraph 2 (f):**

  - ***Please provide a list of the bilateral agreements for the exchange of information on terrorism–related matters to which Cyprus is a party.***

Cyprus concluded bilateral agreements which, inter alia, provide for the exchange of information on terrorism-related matters with the following countries:

- Syria (concluded on 4.4.1989)
- Italy (concluded on 15.3.1991)
- Poland (concluded on 26.10.1992)
- Czech Republic (concluded on 7.12.1992)
- Slovak Republic (concluded on 7.12.1992)
- Greece (concluded on 11.12.1993)
- Egypt (concluded on 7.6.1994)
- China (concluded on 18.10.1994)
- Israel (concluded on 9.1.1995)
- Romania (concluded on 7.6.1995)
- Hungary (concluded on 13.6.1996)
- Malta (concluded on 17.9.1999)
- Cuba (concluded on 16.11.2000)
- Russian Federation (concluded on 16.11.2000)
  (valid also for Belarus, Georgia and the Ukraine)

Furthermore the F.I.U. of the Republic of Cyprus (MOKAS) has concluded memoranda of understanding (M.O.Us) with the F.I.Us of the following countries: Belgium, Czech Republic, France and Slovenia. In this context, information relating to terrorism and/or its financing is provided by virtue of the specific section contained in the Prevention and Suppression of Money Laundering Activities Law of 1996, as amended. This section enables the Unit to cooperate and exchange information with its F.I.U. counterparts from other countries without directly having concluded a relevant M.O.U., and it regularly does so.

- **Sub-paragraph 2 (g):**

  - ***Could Cyprus please provide the CTC with information on the mechanism for inter-agency co-operation between the authorities responsible for narcotics control, financial tracking and security?***

In Cyprus, co-ordination and co-operation between the various authorities is easily achieved. Inter-agency co-operation required in implementing the measures prescribed in this sub-paragraph, has been bolstered with the recent decision of the Council of Ministers to set up a Coordinating Body Against Terrorism (MOKAT).

This Body is chaired by the Deputy Attorney General and is composed of representatives from the Police, the Customs Department, Attorneys of the Law Office of the Republic, the Ministry of Foreign Affairs, the Ministry of Justice and Public Order, the Unit for Combating Money Laundering (MOKAS) and the Central Information Agency.

Police

The important role of the police in implementing this paragraph is also noted:

In Cyprus there is only one National Police Force. The organization of the Police is based upon a hierarchical structure, led by the Chief of Police.

Border control is carried out by Police Aliens and Immigration Unit, Police Security Services, Port & Marine Police and the Police Airwing. Moreover, personnel of the Drug Law Enforcement Unit, which is also under the direction of the Chief of Police, are stationed at the points of entry/exit of the Republic of Cyprus.

There is also close cooperation between all the Police Departments as well as the Migration Department (Ministry of Interior) and the Customs & Excise Department (Ministry of Finance) which are involved in border control. In some cases, personnel of these Services are housed in the same buildings. The cooperation includes, inter-alia, exchanging data, information/intelligence, equipment sharing, common training, and regular meetings.

There is also close cooperation between the above Services and the Unit for Combating Money Laundering (MOKAS) which is composed of Police and Customs & Excise Department Investigators as well as members of the Office of the Attorney General.

Furthermore, it should be noted that within the Cyprus Police the Fraud Investigation Squad undertakes all matters related to economic and financial crime.

The Customs and Excise Department (CDC&E)

Due to its physical presence at the points of entry and exit of the Republic of Cyprus, the CDC&E is in a position to provide a wide range of essential services to a host of other Government departments. Consequently, the CDC&E is responsible for the enforcement of various prohibitions and restrictions derived from national legislation and international conventions, ratified by the Republic of Cyprus.

The activities of the CDC&E in the fight against terrorism and organized crime are focused on the following areas:

- The illicit drug trafficking
- The illicit trafficking of weapons explosives and weapons of mass destruction, including biological and chemical ones
- Money laundering
- Other types of organized crime, including cigarettes and alcohol smuggling, precursor chemicals, intellectual property rights, paedophilia.

Customs officers are empowered by national legislation with the following powers:

- To examine goods.
- To require any person or company concerned with the importation, exportation or shipment of goods to provide any information in relation to the goods.
- To search persons, premises, customs controlled areas, vehicles, vessels or aircrafts, in accordance with the existing legislation.
- To take representative samples.
- To detain goods.
- To seize goods and documents.
- Right of access to documents (including electronic ones).
- To conduct audit control of business records.
- To detain and/or arrest any person(s) who is found committing or attempting to commit or being in any way concerned in the commission of offences relating to fraudulent evasion of duty or evasion of any prohibition or restriction.
- To institute legal proceedings for offences.
- To conduct proceedings before the appropriate court.
- To freeze and seize assets belonging to persons charged with knowingly acting contrary to the Prevention and Suppression of Money Laundering Activities Law of 1996 No.61 (I)/96.
- To exchange and share information in customs matters with other customs administrations for law enforcement purposes.
- To conduct inquiries on behalf of other customs administrations under certain conditions.

Furthermore, the following measures and controls against terrorism and organized crime are applied:

- Risk analysis for profiling and targeting, customs patrols at ports and airports, enhancement of passenger controls, enhancement of cooperation between the Cyprus Police and other local and foreign agencies, as well as cooperation with non-governmental organizations.
- Use of the National Information System and data of international intelligence systems that the Department has access to (RILO, AFIS, BALKAN INFO, MARINFO, CEN).

In order to increase its efficiency the CDC&E has elaborated a strategic plan that includes, inter alia, the following strategic objectives:

- The fight against drugs and other sensitive goods is of highest priority.
- Selective controls through risk analysis.
- Use of post clearance audit methods.
- Enhancement of international cooperation and exchange of information and intelligence.
- Establishment of an integrated electronic intelligence and data base system.
- Restructuring of the Department in order to face new challenges and trends.

As regards the inter-agency cooperation the CDC&E is in constant and regular contact with the Police and foreign Drug Liaison Officers stationed in Cyprus. Moreover, a Memorandum of Understanding was signed between the CDC&E and the Police in 2001, regulating the responsibilities of the two services on drug related issues. Finally, there is the flexibility so that joint operations can be organized upon consent of the two services in areas of their jurisdiction, for example drugs, illegal arms trafficking and trafficking in human beings.

- **Sub-paragraph 3 (a) and (b):**

  - ***Apart from the measures regarding exchange of information mentioned in relation to sub-paragraphs 2 (b), (c), (f) and (g), is there any law which enables such co-operation and mutual assistance? If so, please outline the law.***

In addition to the measures in force mentioned in the initial Report concerning the exchange of information, legislation exists which enables such co-operation.

Specific legal provisions which allow and facilitate cooperation and mutual assistance in these matters are included in the Prevention and Suppression of Money Laundering Activities Law (Law No. 61(I)/96, as amended), the Ratification Law of the U.N. International Convention for the Suppression of the Financing of Terrorism (Law. No 29(III)/2001) and the Law providing for International Co-operation in Criminal Matters (Law No. 23(I)/01)

Furthermore, apart from the relevant multilateral conventions to which Cyprus is a party, all bilateral agreements on legal/judicial cooperation concluded by the Republic of Cyprus provide for such cooperation and assistance.

- **Sub-paragraph 3 (e):**

  - ***Have the crimes mentioned in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the relevant bilateral treaties which Cyprus has concluded with other countries.***

All bilateral agreements on extradition between Cyprus and other countries provide that extraditable offences are those punishable with over one year imprisonment. Therefore, since the offences included in the International Conventions are punishable with imprisonment of over one year, they fall within the definition and are extraditable offences.

Moreover in most international Conventions, under which certain specified acts are established as crimes, there are provisions regarding the extraditable nature of such crimes. Reference is made by way of example to Article 8 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents.

Article 8 of the above Convention reads:

> 1. "To the extent that the crimes set forth in Article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every future extradition treaty to be concluded between them.
>
> 2. If a State Party which makes extradition conditional on the existence of a treaty receives a request, for extradition from another State Party with which it does not have an extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.
>
> 3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.
>
> 4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of Article 3."

This provision and similar provisions in other Conventions/Treaties are self executing provisions and fully binding upon the Republic.

- **Sub-paragraph 3 (g):**

  - ***Please inform the CTC whether there is any law on extradition and, if so, please outline it and state whether it is dependent for its operation on bilateral treaties.***

The existing national legislation on extradition in Cyprus is the "Extradition of Fugitives Law" (Law No. 97/70), as amended by Law No. 97/90, which operates only in the existence of a multilateral and/or bilateral treaty.

(Description on the extradition procedure in Cyprus is appended hereto as **Appendix.**)

- ***Could Cyprus please clarify whether its reservation to the European Convention contradicts the statement made in the report that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists?***

It is clarified that the reservation to the European Convention does not relate to politically motivated offences but to political offences, which is a different notion. For clarity, the relevant reservation is the following: *"The Government of the Republic of Cyprus reserves the right to refuse extradition in respect of any offence mentioned in Article 1 which it considers to be a political offence".*

The provision on Political Offences of the Convention is Article 3, which states as follows:

"1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.

2. The same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account, or that that person's position may be prejudiced for any of these reasons.

3. The taking or attempted taking of the life of a Head of State or a member of his family shall not be deemed to be a political offence for the purposes of this Convention.

4. This Article shall not affect any obligations which the Contracting Parties may have undertaken or may undertake under any other international convention of a multilateral character."

It should be stressed that in Cyprus, offences such as murder are not considered as political offences.

It should be further underlined that no extradition request was ever refused by the Republic of Cyprus on the ground that the offence was a political or a politically motivated one.

Therefore, the reference in the Report that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists does not contradict the reservation.

- ***It would be useful to the CTC to have a list of countries with which bilateral treaties on extradition have been concluded.***

Apart from the European Convention on Extradition, the Republic of Cyprus has concluded bilateral agreements on extradition with the following countries: Bulgaria, Czech Republic, Egypt, Hungary, Russian Federation, Slovak Republic, and U.S.A.

- **Paragraph 4:**

  - ***Has Cyprus addressed any of the concerns expressed in paragraph 4 of the resolution?***

The Republic of Cyprus fully recognises the close connection between international terrorism and transnational organized crime, illicit drugs, money laundering, illegal arms-trafficking and illegal movement of nuclear, chemical and biological and other potentially deadly materials. As such it attaches particular importance and attention to the co-ordination of efforts on the national, sub regional, regional and international levels which aim at strengthening the global response to this serious challenge.

Further to the information already submitted to the CTC on the implementation of paragraph 4 of SCR 1373 as contained in the Republic's initial report, please find attached **Annex I**, which contains an updated, account of measures taken by the Republic of Cyprus in implementing paragraph 4 of SCR 1373.

Other matters:

- ***Your Government is respectfully requested to make available copies of the relevant provision of the legal enactments, regulations and other documents currently in force that are relevant to comply with paragraphs 1, 2 and 3 of the Resolution.***

A publication consisting of two volumes to be issued by the Law Commissioner's Office which includes the texts of relevant legislation against terrorism is being currently prepared. An advance copy of the first volume is enclosed herewith, while the second volume will be forwarded to the CTC shortly.

- ***It would also be useful to the CTC to have an organizational chart of the administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, to give practical effect to the laws, regulations and other documents that are seen by your Government as contributing to compliance with the Resolution.***

The organizational charts of the administrative machinery, submitted herein are:

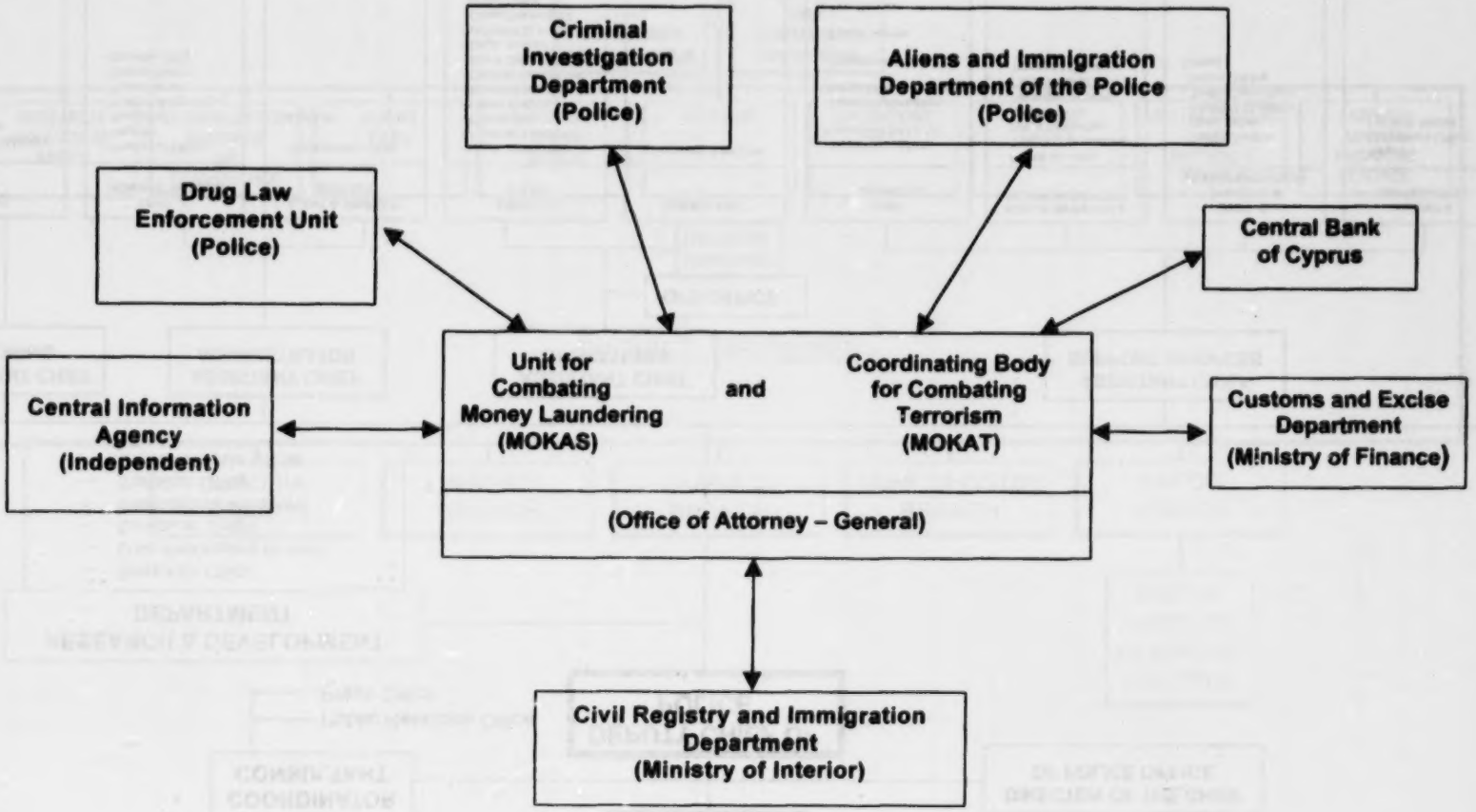
1. An organisational chart showing the cooperation between various departments of the Republic dealing with the practical aspects of the laws, regulations and other documents that are considered by the Republic of Cyprus as contributing to the effective compliance with SCR 1373.

2. The organisational chart of the Customs and Excise Department.

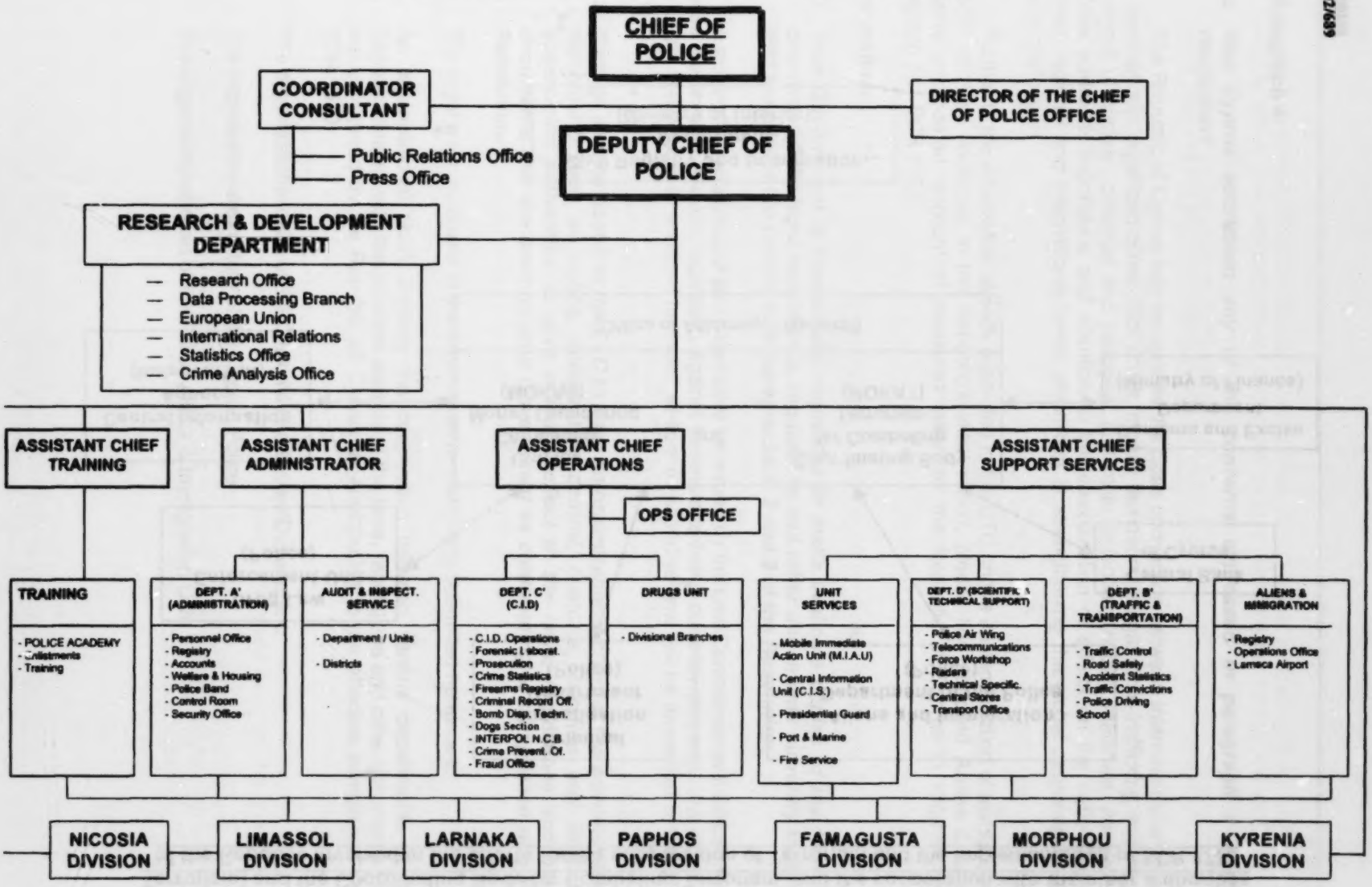
3. The organisational structure of the Cyprus Police

4. The organisational chart of the Police Aliens & Immigration Unit.

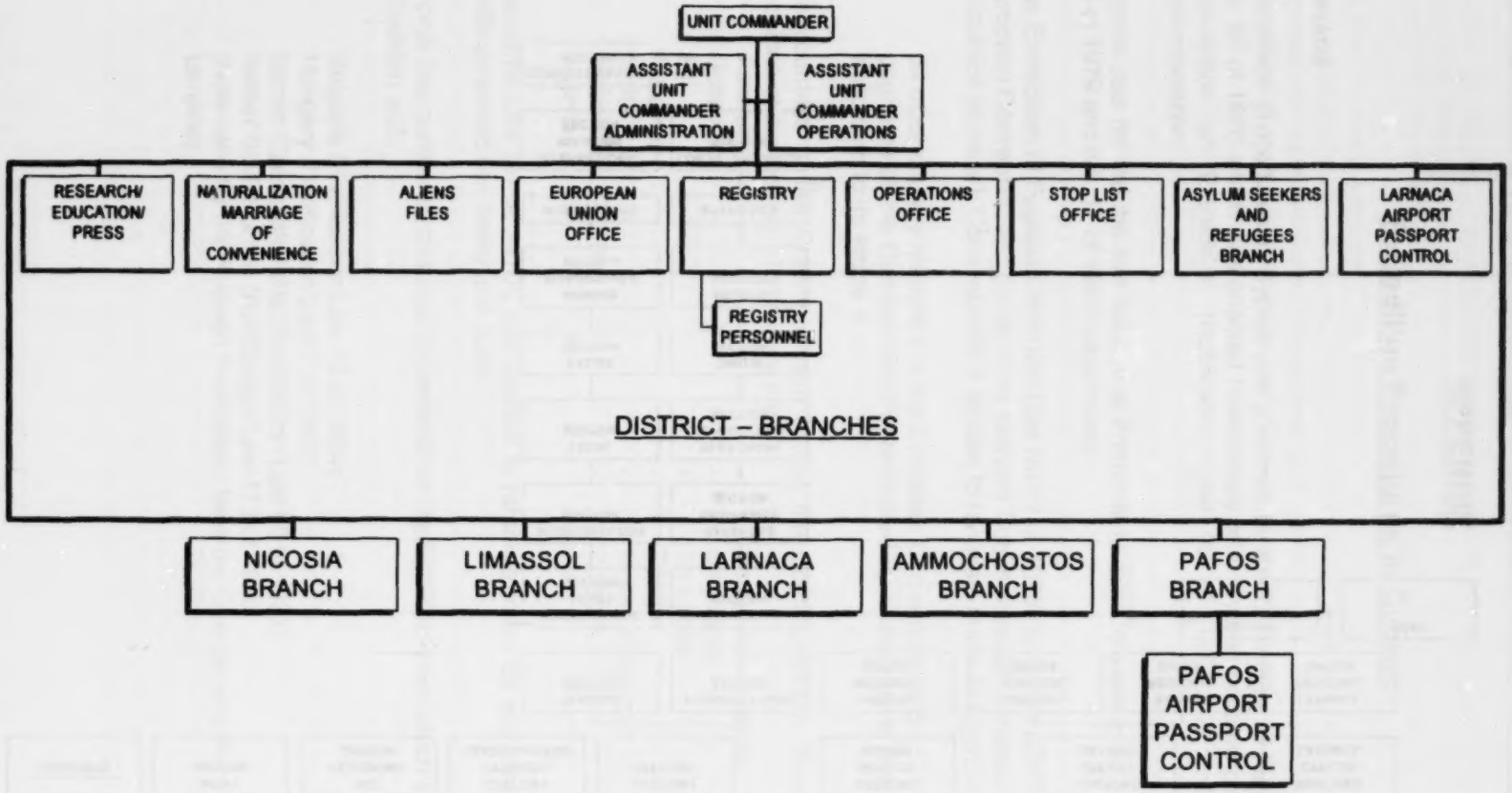
Organisational Chart showing the central role of the Unit for Combating Money Laundering (including the financing of Terrorism) and the Coordinating Body for Combating Terrorism, and the cooperation with the other authorities of the Republic involved in the efforts for the suppression of Terrorism and the implementation of SCR 1373


Criminal Investigation Department (Police)
Aliens and Immigration Department of the Police (Police)
Drug Law Enforcement Unit (Police)
Central Bank of Cyprus
Central Information Agency (Independent)
Unit for Combating Money Laundering (MOKAS)
and
Coordinating Body for Combating Terrorism (MOKAT)
Customs and Excise Department (Ministry of Finance)
(Office of Attorney – General)
Civil Registry and Immigration Department (Ministry of Interior)

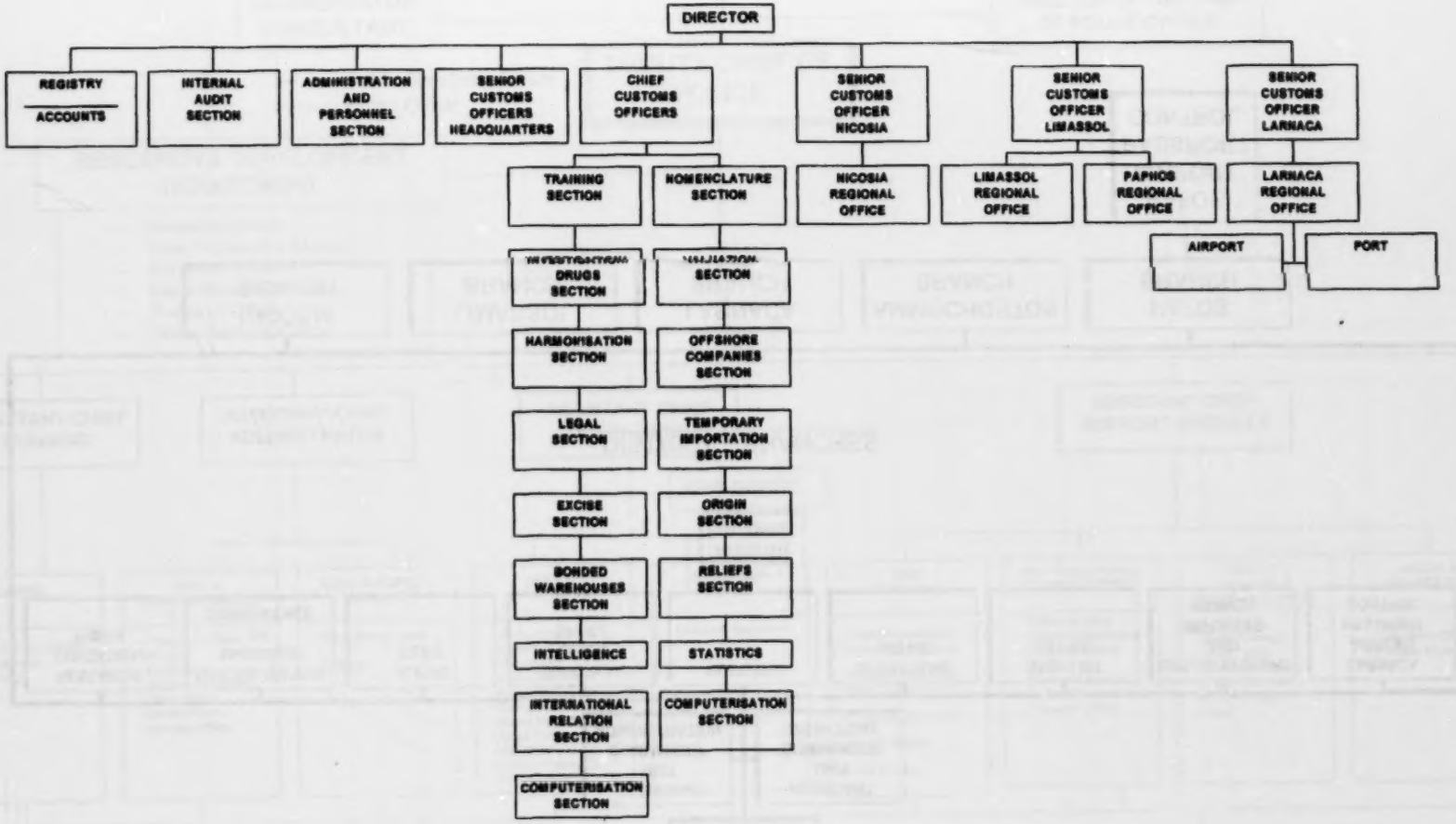
ORGANISATIONAL STRUCTURE OF CYPRUS POLICE



ALIENS & IMMIGRATION DEPARTMENT OF THE POLICE



DEPARTMENT OF CUSTOMS AND EXCISE



APPENDIX

Extradition Procedures in Cyprus

1. **General**

1.1. Extradition procedures in Cyprus are governed by the Extradition of Fugitive Offenders Law No. 97 of 1970 which was enacted immediately after Cyprus became party to the European Convention on Extradition (Ratification Law 95 of 1970), in order to facilitate its implementation.

1.2. Cyprus also ratified the two Additional Protocols to this Convention by Ratification Laws No 23 of 1979 and No. 17 of 1984 respectively.

1.3. The Extradition of Fugitive Offenders Law No 97 of 1970 combines both the Provisions of the European Convention and those of the relevant Commonwealth Scheme (which facilitates the extradition process). Consequently it applies to requests made to Cyprus by:

- all other country-members to the European Convention, and
- countries of the Commonwealth designated by a decision of the Council of Ministers according to its Article 4.

1.4. The countries of the Commonwealth (within the Commonwealth Scheme) designated by decisions of the Council of Ministers are:

- Australia
- Botswana
- Fiji
- Malaysia
- Malta
- Mauritius
- Nigeria
- Papua-New Guinea
- Singapore
- Sri Lanka
- Tonga
- United Kingdom
- Zambia

1.5. The same Law (97 of 1970), also applies to requests made by any other foreign State with which an extradition treaty is in force.

1.6.1. Cyprus has concluded bilateral agreements on legal co-operation which include provisions on extradition with:

- Bulgaria (Ratification Law 18 of 1984)
- Hungary (Ratification Law 7 of 1983)
- former Czechoslovakia (Ratification Law 68 of 1982)
- former Soviet Union (Ratification Law 172 of 1986)
  [Now valid for the Russian Federation, Belarus, Georgia and the Ukraine]

1.6.2. Cyprus has also concluded bilateral treaties on extradition with:

- Egypt (Ratification Law 13(III) of 1996
- USA (Ratification Law 9(III) of 1997

1.7. The Republic of Cyprus is also bound by bilateral agreements on extradition which were concluded by the United Kingdom and thereafter remain in force in Cyprus after its independence by succession through a specific provision in the Treaty of Establishment.

1.8. Owing to the differences in the legal systems of Europe and the Commonwealth regarding the prima-facie requirement, it was found necessary to amend Law 97 of 1970 by Law 97 of 1990 so that the prima-facie requirement is no longer applied in applications under the European Convention.

1.9. The extradition procedure is a combination of administrative and the judicial procedures and involves separate functions for the Minister of Justice and Public Order and the Courts.

The following agencies have a role in extradition matters:

- Ministry of Foreign Affairs,
- Ministry of Justice and Public Order,
- Police,
- Office of the Attorney General of the Republic,
- Courts.

2. Procedure concerning requests made to Cyprus.

2.1. The extradition process begins either with a request for the provisional arrest of the fugitive or by a formal request submitted usually through the diplomatic channel.

2.2. When a request for provisional arrest is received by the Ministry of Justice and Public Order either directly or through police or diplomatic channels, if at first instance it seems unlikely that it would be refused outright, the Police is requested to seek, find and arrest the fugitive provisionally.

2.3. A police officer presents the information received with the request for provisional arrest to the President of the District Court within the jurisdiction where the fugitive was located and requests the issuance of a provisional warrant for the fugitive's arrest.

2.4. A provisional warrant may be issued upon such evidence as would, in the opinion of the President of the District Court, authorise the issue of a warrant for the arrest of a person accused of committing a corresponding offence or a person alleged to be unlawfully at large after conviction of an offence, within the jurisdiction of his Court.

2.5. A request for provisional arrest may be also received directly by the police, through police channels, and it will be processed in the same way as described in paragraphs 2.3 and 2.4. above.

2.6. When a provisional warrant of arrest is issued by the Police, the Court issuing the warrant must notify forthwith the Minister of Justice and Public Order who may, by order, cancel the warrant and if the person was arrested discharge him/her from custody.

2.7. When a fugitive is arrested in pursuance of a provisional warrant of arrest, he/she is brought as soon as practicable (within 24 hours) before a District Court Judge. At the request of a Counsel of the Republic from the Office of the Attorney General which is the Prosecuting Authority, the Judge remands him/her either in custody or on bail pending authority by the Minister of Justice and Public Order to proceed. The Judge may fix a reasonable period (of which the Minister is notified) according to the period prescribed in the applicable treaty, after which the person is immediately discharged from custody unless the authority by the Minister to proceed is submitted.
However the fugitive may be rearrested following a formal request for extradition, on authority to proceed by the Minister and the issuance of an arrest warrant.

The fugitive has a right to legal representation and if his/her financial means are insufficient, the Court appoints a defence lawyer to represent him/her and the lawyers expenses and fees are covered by the State.

2.8. After the extradition request is received, usually through diplomatic channels, and the documents are examined by the Ministry of Justice and Public Order in collaboration with the Office of the Attorney General and found to be in accordance with the relevant Law and applicable Treaty, the Minister of Justice and Public Order signs the authority to proceed which is subsequently submitted to the Court together with the extradition request and supporting documents. Copies are also given to the legal representative of the fugitive.
Additional documents and information may be required from the requesting State by the Counsel of the Republic either at this stage or at any time during the hearing of the case.

2.9. When a formal extradition request is received by the Ministry of Justice and Public Order and after the documents are examined in collaboration with the Office of the Attorney General and found to be in accordance with the Law and the applicable Treaty, the Minister of Justice and Public Order signs the authority to proceed. (If the examination of documents is likely to take days, after a first instance inspection, the Police are requested to proceed in the way described in the case of a request for provisional arrest).

2.10. The authority to proceed, together with the extradition request and supporting documents are then submitted to a Judge of the District Court within the jurisdiction where the fugitive is located or believed to be, who, if he considers it appropriate, as per paragraph 2.4. above, issues a warrant for arrest.

2.11. When arrested, the fugitive is brought as soon as practicable (again within 24 hours) before the Judge who remands him/her either in custody which is usually the case or on bail. Copies of the documents are given to his legal representative and the date for the hearing is fixed.

2.12. At the hearing, where the Judge is satisfied that: the offence to which the authority relates is an extraditable offence; the documents submitted meet the requirements of the relevant Law and applicable Treaty; and the committal of the fugitive is not prohibited, the Judge is required to commit the fugitive to custody and to await the Minister's decision on surrender. The

fugitive is informed at the same time by the Judge of his/her right to make an application for a writ of habeas corpus to secure his discharge and the Minister is notified accordingly forthwith.

2.13. In applications which are not made under the European Convention the prima facie rule is applied.

2.14. A person committed to custody as per paragraph 2.12. cannot be surrendered before 15 days have passed, beginning with the day on which the order for his committal is made.

2.15. If an application for habeas corpus is made, the fugitive cannot be surrendered until the final determination of the proceedings, including an appeal or the expiration of the time within which the appeal may be brought, has taken place.

2.16. During the 15 days mentioned in paragraph 2.14. or after the final determination of the proceedings mentioned in paragraph 2.15, the Minister of Justice and Public Order examines the case further in accordance with Articles 6 and 11 of Law 97 of 1970, inter-alia, whether the offence is a political one, or whether the fugitive is sought to be prosecuted or detained on account of his race and religion or whether the fugitive is already serving a sentence in Cyprus.

2.17. Where the Minister decides to issue a warrant order for the return to the requesting State, notice of the warrant is given forthwith to the fugitive to be extradited.

2.18. If a fugitive is not returned to the requesting State
(a) after the expiration of 2 months from the date he/she could have been returned or
(b) after the expiration of one month following the date of issue of the return warrant he/she may apply to the Supreme Court for his discharge.

2.19. The fugitive may at any stage waive his/her rights under the Extradition Law and applicable treaty and consent to his/her return. In this case, the fugitive is surrendered as expeditiously as possible without further proceedings.

ANNEX

MEASURES AGAINST TERRORISM

General

The Government of the Republic of Cyprus wishes to reiterate that it fully recognizes the existence and the dimensions of this international problem. The fight against international crime, particularly terrorism, through international cooperation, is one of the top priorities of the foreign policy of Cyprus.

The Government reaffirms its commitment to join forces with all Governments on a bilateral level as well as in international fora in the struggle to eliminate terrorism. This determination has been explicitly stated at the highest level with the assurance that all practical measures will be taken in cooperation with the international community and in line with the obligations deriving from the relevant international treaties which Cyprus is party to.

- Cyprus has to date ratified or acceded to eleven of the twelve international conventions pertaining to international terrorism, as well as the relevant Convention of the Council of Europe and will shortly ratify the remaining one, (i.e. the Convention on the Marking of Plastic Explosives of which the Bill is been currently examined by the House of Representatives). Specifically, Cyprus is party to the four main relevant Conventions, which are deposited with the Secretary General of the United Nations, namely the "International Convention for the Suppression of the Financing of Terrorism", the "International Convention for the Suppression of Terrorist Bombings", the "International Convention Against the Taking of Hostages" and the "International Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons including Diplomatic Agents".

Terrorist Attacks against the United States on September 11, 2001

- On September 11 the world watched with horror the massive destruction and suffering caused by the shocking events that took place in the United States. These criminal acts of terrorism were condemned unreservedly by the Republic of Cyprus. The attacks were not only attacks against the United States but also an assault against humanity and the fundamental principles of civilization.

- Our fight is against terrorists and terrorism and not against a culture or religion or between cultures or religions. Cyprus therefore associates itself fully with the statement made at the extraordinary European Council on September 21st rejecting "any equation of groups of fanatical terrorists with the Arab or Muslim world".

- The events of September 11th underlined and brought into sharper focus the need for the members of the international community, both individually and collectively, to redouble their efforts in a concerted and coordinated manner to fight terrorism and its sponsorship.

- Those involved in sponsoring terrorism have sought to use international financial facilities for their criminal activities. In this, the Government fully recognizes the importance of having strict anti-money laundering measures in place and the need to cut off the funding and sustaining of

terrorism. The Republic of Cyprus is recognized both by individual countries such as the US and leading global anti-money laundering organizations, including FATF that it has a comprehensive anti-money laundering system and that the Central Bank has in place a strict regulatory framework aimed at preventing abuses within the offshore sector.

- Following the attacks on September 11th, Cyprus has taken additional measures in the form of heightened vigilance and security measures as well as increased efforts to locate and freeze any terrorist assets. These measures and actions have, to date, included the following:

- **12.9.2001** The Ministry of Foreign Affairs issued a press release that unconditionally condemned the terrorist attacks while offering the condolences of the Government and the people of the Republic of Cyprus to President Bush and the American people.

- On the same date the Republic of Cyprus aligned itself with the statement of the Presidency of the European Union in condemning these acts of terrorism.

- **20.9.2001** The Central Bank of the Republic of Cyprus issued a circular to all Commercial Banks and International Banking Units (IBUs) in Cyprus requesting the freezing of potential funds and other financial resources belonging to persons/organizations and/or entities associated with Osama bin Laden, Al Qaeda and the Taliban. Similar circulars were also sent on **27.9.2001**, on **2.10.2001**, on **17.10.2001**, on **30.10.2001**, on **19.11.2001**, on **5.12.2001**, on **6.12.2001**, on **4.1.2002**, on **9.1.2002**, on **28.1.2002**, on **20.2.2002** on **4.3.2002**, on **20.3.2002**, on **20.3.2002**, on **5.4.2002**, on 25.4.2002 on **13.5.2002** and on **23.5.2002**.

  Note: The above circulars include lists of persons (individuals and entities) designated as being associated with the Taliban and Osama bin Laden, by the Security Council Committee on Afghanistan (acting under SCR 1267 (1999) and 1333 (2000) as well as the persons/entities included in the Executive Order 13224 issued by President Bush on September 23, for the blocking of assets of terrorists or terrorist organizations. It is noted that the circulars sent on 30.10.2001 and on 20.2.2002 included lists issued by the Financial Crimes Enforcement Network (FinCEN).

- **21.9.2001** The Republic of Cyprus aligned itself with the conclusions and plan of action adopted at the extraordinary European Union meeting in Brussels, which call for developing and implementing specific measures against terrorism while intensifying inter-state cooperation in related areas.

- **23.9.2001** The Ministry of Foreign Affairs sent a letter to the appropriate authorities calling for detailed information on measures taken to heighten security in the Republic.

- **25.9.2001–2.10.2001** The Department of Customs of the Ministry of Finance, the Ministry of Communications and Works and the Ministry of Justice and Public Order informed the Ministry of Foreign Affairs respectively that heightened vigilance, surveillance and security measures were introduced.

- The authorities, inter alia, implemented additional measures concerning security checks of all individuals at entry and exit points of the Republic, including the need for crew to pass security control and obtain clearance before entering the premises of any airport. Security presence

and patrols have been bolstered especially in sensitive areas. In addition, strict passport scrutiny of all arriving and departing passengers was introduced. Additional measures concerning screening of luggage were taken, including the introduction of 100% screening of all hold baggage checked at Larnaca and Pafos Airports and additional checks of passengers and hand luggage at departure gates. All domestic/international private or pleasure light aviation flights were not permitted for a period of eight months. Private or pleasure light aviation flights are currently restricted and allowed only in the cases that these meet certain specific requirements. Increased inspection of all containers/cargoes has been introduced by the Customs Authorities, as well as by other involved Authorities.

- **25.9.2001** The Central Bank of the Republic of Cyprus addressed letters to the Cyprus Bar Association and the Institute of Public Accountants of Cyprus requesting them to inquire with their members whether they had ever provided any services to persons or entities associated with Osama Bin Laden, Al Qaeda and any of the persons included in the list circulated to banks. Similar circulars were also sent on **10.10.2001**, on **18.10.2001** and on **6.12.2001**.

- **29.9.2001** The Ministry of Foreign Affairs sent to all relevant authorities a copy of UNSCR 1373 of 28.9.2001 regarding the call for joint action and measures to be taken by each member-state of the international community in the common endeavour against international terrorism.

- **2.10.2001** Supplementary Circular sent by the Central Bank to all Commercial Banks and International Banking Units (IBUs) regarding the freezing of potential assets/accounts of any person/entity associated with Osama bin Laden and Al Qaeda as designated by UNSCRs 1267, 1333 and the relevant Executive Order 13224 (23.9.2001) issued by President Bush.

- **4.10.2001** Decision of the Council of Ministers instructed all relevant authorities of the Republic to investigate the existence of potential assets/accounts of any person/organization or entity associated to Osama bin Laden and Al Qaeda as designated by UN SC Res. 1267, 1333 and the relevant Executive Order (23.9.2001) issued by President Bush.

- **4.10.2001** The Council of Ministers granted facilities to US military aircraft throughout the Republic's sovereign air space and the right to use its airports for an unlimited period of time following a request from the United States.

- **4.10.2001** The Ministry of Foreign Affairs notified the Department of Customs of its agreement, following the affirmative opinion of the Attorney-General of the Republic, for the immediate acceptance of the completion of the procedures to sell to the Government of the United States of America "nuclear reactor plant equipment" and six packages of Zirconium, which were confiscated by the Cypriot authorities.

Note: The nuclear reactor plant equipment which is U.S. made was brought to Cyprus in transit, in 1995. However, the export from the United States was carried out illegally since the necessary export permit from the Nuclear Regulatory Commission had not been acquired. Instead in the export description the reactor was labeled as power plant equipment. Despite the fact that this was exported as power plant equipment and subsequently imported in Cyprus as such, when it was found that this was in fact nuclear reactor plant equipment, the Republic of Cyprus took every step to withhold the merchandise, even though there was no illegality in the import procedure. The merchandise was confiscated by the Cypriot authorities.

During the same time period six packages of Zirconium were imported in transit from a third country under similar circumstances, namely an illegality in the export procedures. It is noted that Zirconium is included in the trigger list of dual use items and was also confiscated by the Cypriot authorities.

Following an affirmative opinion of the Attorney-General of the Republic the Customs Office put up for public auction the equipment and the Zirconium packages, in line with the relevant legal mechanism of the Republic, to which the United States Government responded with detailed proposals for both. These proposals were accepted by the Republic of Cyprus.

- **8.10.2001** Foreign Minister Kasoulides made the following statement: "The Government of Cyprus has taken note of the commencement of the military operations which are targeting international terrorism, its headquarters and the regime that it's harbouring the headquarters and the camps of the international network of Osama bin Laden". The Minister also noted that this operation is part of the overall campaign against terrorism that includes diplomatic, political and economic objectives. He added that "Cyprus appreciates the statements made by President Bush and Prime Minister Blair and in particular that this military operation is not targeting the people of Afghanistan or innocent civilians, but is targeting specifically the terrorists and the regime that it's harbouring them". The Minister also stated that Cyprus is among the 40 countries, mentioned by President Bush in his statement, that have offered air space and landing rights to US military aircraft taking part in this operation and that "Cyprus considers itself a member of the coalition which along with other European countries, but also Moslem countries, and in particular friendly countries of the Arab world, are also participating in the fight against terrorism".

- **8.10.2001** Cyprus aligned with a statement by the EU General Affairs Council, which declared full solidarity with the US concerning the operations in Afghanistan.

- **10.10.2001** Council of Ministers approved a Bill titled "Law for the Ratification of the International Convention for the Suppression of the Financing of Terrorism" and authorized its immediate submission to the House of Representatives.

  This Bill included:

1. The Ratification of the International Convention for the Suppression of the Financing of Terrorism that Cyprus signed on 1.03.2001.

2. Setting of penalties for relevant criminal acts in the fulfillment of the obligations arising from provisions of the Convention.

3. Inclusion, in the national legislation, of provisions necessary for the enactment of provisions in the Convention, which are not self-implemented.

4. Determining, with the view to facilitating conformity with the provisions of the Convention, those criminal acts defined as such by the provisions of national legislation on concealment, investigation, and confiscation of assets from certain crimes.

- **17.10.2001** Supplementary Circular sent by the Central Bank to all Banks operating in Cyprus calling for the immediate freezing of any assets belonging to the 39 individuals entities identified in Executive Order 13224 (23.9.2001).

- **22.10.2001** The House of Representatives approved the Bill ratifying the International Convention for the Suppression for the Financing of Terrorism by Law, 29(III) 2001.

  N.B. The Law 29(III) 2001 included a special provision that calls for the enlargement in size and expansion of mandate of the already existing unit for combating financial crime (MOKAS) which will from now on accommodate a special department devoted to investigating and acting upon criminal acts, as derived from the Convention.

- **31.10.2001** The Council of Ministers approved the draft Ratification bill of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.

- **28.11.2001** The draft Ratification Bill for the "Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation", which was approved by the Council of Ministers at 31.10.2001, was submitted to the House of Representatives.

- **28.11.2001** The Council of Ministers approved a draft Bill amending the Criminal Code. The Bill criminalizes participation in a criminal organisation in accordance with the Common Act adopted by the Council of the European Union (98/733/JHA). According to the provisions of the Amending Bill, a criminal organisation is defined as a group that exists for at least six months and consists of three or more individuals, with the common purpose to commit serious criminal offences.

- **30.11.2001** The Instrument of Ratification of the Republic of Cyprus for the International Convention for the Suppression of the Financing of Terrorism was deposited with the Secretary General of the United Nations. Cyprus became the 15th country to ratify the above-mentioned Convention.

- **6.12.2001** The Council of Ministers, through Decision No. 54.652, approved the proposal concerning the restrictive measures against the Taliban regarding Common Position 2001/771/CFSP and amending Common Positions 1996/746/CFSP, 2001/56/CFSP and 2001/154/CFSP.

- **12.12.2001** The Council of Ministers approved the establishment of a Coordinating Unit to combat international terrorism (MOKAT). This unit concentrates on areas of illegal arms sales and brokerage, illegal trafficking of arms, of explosives, of weapons of mass destruction, of harmful chemical substances and of dual-use items. This unit has the jurisdiction to conduct questioning and investigations, collect data and exchange relevant information with related coordinating units of other countries for the purpose of the suppression of activities relating to terrorism.

  This Coordinating Unit functions under the auspices of the Deputy Attorney General of the Republic. In order to ensure an immediate response to any information relating to terrorist activities, this unit is comprised of two advocates, members of the Law Office of the Republic, a representative of the Ministry of Foreign Affairs, a representative of the Ministry of Justice

and Public Order, three representatives from the Police Department, a representative from MOKAS, a representative from the Central Information Agency, and a specialist on analyzing electronic data.

- **20.12.2001** The House of Representatives approved the Ratification of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving Civil Aviation.

- **21.12.2001** The Republic of Cyprus submitted its Report on the "Measures taken to Combat Terrorism" to UN Security Council Committee 1373.

- **31.12.2001** The Official Gazette of the Republic published the Law 33(III) 001 ratifying the "Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation" supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

- **11.1.2002** The Republic of Cyprus aligned itself with Common Positions 2001/930/CFSP and 2001/931/CFSP on combating terrorism and on the application of specific measures to combat terrorism respectively.

- **15.1.2002** The Ministry of Foreign Affairs sent to all relevant authorities a copy of UNSCR 1388 regarding the lifting of the ban on Adriana airlines.

- **17.1.2002** The Ministry of Foreign Affairs sent to all relevant authorities a copy of UNSCR 1390 regarding amended restrictive measures on the Taliban, Osama bin Laden, Al Qaeda and their accomplices. In parallel, a relevant proposal implementing Users 1388 and 1390 was sent for endorsement by the Council of Ministers.

- **25.1.2002** The Central Bank of the Republic of Cyprus issued a circular to all Commercial Banks and International Banking Units in Cyprus requesting the immediate freezing of any balanced standing to the credit of the persons included in a supplementary list of persons subject to the provisions of UNSCR 1267 (1999) and 1333 (2000).

- **5.2.2002** The Council of Ministers endorsed the implementation of UNSCRs 1388 and 1390 by Decision 55.055.

- **14.2.2002** The Official Gazette of the Republic published Law 12(I) 2002 amending the Criminal Code to include a definition of a criminal organization and of criminal participation in a criminal organization, which the Council of Ministers had approved on 28.11.2001.

- **20.2.2002** The only remaining Convention against International Terrorism to be ratified by the Republic of Cyprus, namely the International Convention on the Marking of Plastic Explosives, was examined by the Committee of External Affairs of the House of Representatives and is shortly to be forwarded for approval by the Plenary.

- **27.2.2002** The Council of Ministers by Decision 55.197 granted authority to the Attorney General of the Republic to take measures (after informing the President) for the freezing of assets of terrorists and/or terrorist organizations whose names do not appear on the lists of relevant Security Council Resolutions but on other lists such as the ones issued by the US

Executive Order 13224, or other Authorities. This Decision has retroactive effect (from 4.10.2001 onwards).

- **7.3.2002** The Republic of Cyprus became the 55th state party of the Rome Statute of the International Criminal Court.

- **16.4.2002** The Chairman of the Coordinating Body against Terrorism of the Republic of Cyprus (which was established on 12.12.2001) replied to the request of the Chairman of Security Council Committee 1267 concerning the request from all States to report to the aforementioned Committee on the implementation of the mandatory measures contained in SCR 1390.

- **24.4.2002** In line with European Union policy currently in effect, the Council of Ministers, through Decision 55.540, amended elements of the restrictive measures regarding passport scrutiny (specifically stamping) of all arriving passengers to exclude citizens of the European Union and the European Economic Area.

- **1.5.2002** The relevant authorities of the Republic of Cyprus through MOKAS, submitted to FATF a "Self Assessment Exercise" regarding the FATF Special Recommendations on Terrorist Financing.

- **13.5.2002** The Republic of Cyprus aligned itself with Common Position 2002/340/CFSP on extending Common Position 2001/931/CFSP on the application of specific measures of combat terrorism, and took action to implement the relevant stop-lists included therein.

- **30.5.2002** The Council of Ministers granted authority to the Attorney General of the Republic to take measures (after informing the President) for the freezing of assets of terrorists and/or terrorist organizations whose names appear on lists issued, specifically, by the European Union.

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